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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,810	08/13/2001	James J. Lalonde	1690A1	8220
7590 10/06/2003				
PPG INDUSTRIES, INC. Intellectual Property Department One PPG Place Pittsburgh, PA 15272			EXAMINER MARX, IRENE	
			ART UNIT 1651	PAPER NUMBER

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/928,810

Applicant(s)

LALONDE, JAMES J.

Examiner

Irene Marx

Art Unit

1651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-15 and 31-40.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Irene Marx  
Primary Examiner  
Art Unit: 1651

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Note:

The proposed amendment raises new issues that would require further consideration and/or search with respect to the proposed amendment in claim 6 to "when the desired amount of product comprising 2-oxoglutaramate is produced" and in claim 7 and 8 to purifying "the product comprising 2-oxoglutaramate", including new issues under 35 U.S.C § 112 and of new matter. The invention as previously claimed and as disclosed in the as filed specification is directed to the purification of "2-oxoglutaramate".

***Response to Arguments***

Applicant's arguments have been fully considered but they are not deemed to be persuasive.

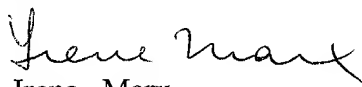
The arguments are directed to claims that are not entered. In response to the arguments by applicant regarding the use of bacterial cells or *Proteus* and *Providencia* microorganisms in the process, it is noted that the claims comprise "active biocatalysts" obtained from unknown microorganisms of certain genera. There is nothing on the record to substantiate that the effects of "active" biocatalysts obtained from *Proteus* or *Providencia* differ significantly in their effects from the snake venom biocatalysts used in the Meister reference, for example, which has been shown to have the required activity. Thus, the use of "active biocatalysts" is taught in the art. The source thereof does not necessarily confer patentability as alleged. Moreover, absolute predictability is not required to set forth a *prima facie* case of obviousness.

Therefore the rejection is deemed proper and it is adhered to.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Marx whose telephone number is 703-308-2922. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0926.

  
Irene Marx  
Primary Examiner  
Art Unit 1651